

Date: March 4, 2009

Item No. 1
File No. _____

SUNSHINE ORDINANCE TASK FORCE
Compliance and Amendments Committee
AGENDA PACKET CONTENTS LIST*

- Draft Minutes: Compliance and Amendments Feb. 10, 2009**
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Completed by: Chris Rustom

Date: March 4, 2009

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.



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**SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AND AMENDMENTS COMMITTEE
DRAFT MEETING MINUTES
Tuesday, February 10, 2009
5:00 p.m., City Hall, Room 406**

Committee Members: Richard Knee (Chair), Erica Craven, Doyle Johnson

Call to Order: 5:04 p.m.

Roll Call: Present: Knee, Craven, Johnson

Deputy City Attorney: Ernie Llorente

Clerk: Chris Rustom

Agenda Changes: Item 7 heard before Item 5

1. Approval of January 21, 2009, rescheduled meeting minutes

Motion to approve minutes of January 21, 2009, rescheduled meeting (Johnson / Craven)

Public Comment: None

On the motion:

Ayes: Craven, Johnson, Knee

2. Hearing on the status of the January 6, 2009, Order of Determination of Kimo Crossman vs. the Department of Telecommunications and Information Services, San Francisco Government TV, and the City Attorney's Office.

Complainant Kimo Crossman said he has received a spreadsheet from DTIS but that metadata had been removed from it. In addition, a log he received stated that personal information and comment had been removed without justification. He said the document did not include filepath information that DTIS has said is a back door for hackers. Other departments have long provided the information, he added.

Respondent Barry Fraser of the Department of Technology said the spreadsheet that was provided was run through a data removal application sent by Mr. Crossman. The application did not allow the user to make distinctions on the kind of data that was to be removed. He noted that the document's date was modified. Best practices in the industry says file paths should not be provided but in this case it was provided

because he copied the document to his desktop and ran the application from there, he said.

Member Craven reminded Mr. Fraser that Task Force Chair Kristin Chu had wanted the department to show what data was removed and why. Mr. Frazer said besides the filepath information nothing in the document was exempt from disclosure. The printer path information was of slight concern because it would show how the department was structured. He also agreed that Mr. Crossman would get an exact copy of the document that was located on his desktop.

Mr. Crossman said the Ordinance addresses the location of a file and that it was not limited to onsite or offsite storage. He also said an expert witness has never said filepaths are dangerous to a system or network.

Mr. Frazer in summary said other departments may not think twice about a filepath but the city's IT department sees it as a risky and is not best practice.

Mr. Crossman said the filepath issue is a red herring and the city network has not been hacked because of its release.

Public Comment: Ray Hartz wanted to know why the department did not review the document when it was first requested and only waited until today to release it.

Member Craven noted that she hoped DTIS would provide documents in their native format in the future and also provide justification when necessary. She also said it hasn't been proven to her that releasing filepath information creates a security risk but that the department had made a good-faith argument that releasing it would compromise the network. She also said she did not see the need to forward this case for enforcement.

Member Craven suggested that the department issue the entire document from the desktop in its entirety within five days and for the item to be placed in next month's agenda if Mr. Crossman reported back to say the department did not comply.

Chair Knee agreed.

No further action taken.

3. Hearing on the status of the January 6, 2009, Order of Determination of Alvin Xex vs the Arts Commission

Complainant Alvin Xex said the respondents are claiming that tracking data for allocation of tax monies and recipients is non-existent. He has not received the information that he had requested several times; he said. This information should be given to him because, he said, it was not a medical or military matter.

Respondent Nancy Gonchar of the Arts Commission said the agency has provided all the documents it has that were responsive to Mr. Xex's request. Ms. Gonchar also said she had contacted the Department of Human Resources and was told that the Arts Commission had not hired an African-American male in the last five years

although people of color had been hired during the same period

Member Craven wanted to know if Ms. Gonchar could contact DHR to inquire if it had the forms of successful applicants for the last five years and if any applicant had checked the box for African-American.

Motion to continue (Johnson)
No second, motion fails.

In summary, she said she will contact DHR and inquire how long job applications are retained, and if it is kept for five years to see if the African-American box was checked.

Mr. Xex said the grant application does have an option to list the applicant's structure and the personnel that will be employed. He also said a name in many cases would indicate the ethnicity and race of the applicant and tracking data is involved when money is given to certain groups. It was improbable for an agency handing out millions of dollars over several years not to have this kind of data, he added.

Public Comment: Ray Hartz said the federal government requires regular reports on all known statistics regarding a grant program to show that all monies are being shared in a fair and equitable basis. He said he was surprised that the city does not keep track of such information. He suggested having the matter continued and having DHR personnel answer the question. Kimo Crossman said the respondent has the information but did not want to provide it because it would show that the department was not distributing the funds equitably.

Member Craven reminded Mr. Xex that the only issue that the Task Force had referred to the Compliance and Amendments Committee was on records disclosing if the agency had employed African-American males in the last five years.

Chair Knee urged both parties to work together and noted that the respondent has indicated that she was willing to work with the complainant to see what additional information is discoverable and disclosable.

No further action taken

4. Continued discussion on the proposed amendments and annotations to Articles I & II of the Sunshine Ordinance

Chair Knee praised Member Craven for all the time and effort she has put into the amendments.

Member Craven explained to Member Johnson the placement of certain sections of the amendments and discussed with the clerk on how the corrections to the document is being tracked.

Public Comment: Kimo Crossman said the file size of the proposed amendments posted on line was not in proportion to the number of pages. He added that Open Government activists are discouraged because only about 10 percent of their suggestions are incorporated into the drafts. He said there was a move to introduce

an independent version to the voters because of the way the activists were being treated.

Chair Knee in response said despite the appearance the efforts by the activists are deeply appreciated. He said comments from all parties had to be weighed and also the committee had to be fair to the departments at the same time. Compromises are a component of a process like this, he said. He also said those involved in a presenting a comparable packet to the voters would find meaningful support from current and present Task Force members. However, the current effort is continuing.

Ray Hartz asked to speak because Chair Knee spoke out of order. Chair Knee agreed. Mr. Hartz said he seems to be the only person who attends all Sunshine meetings except when he had to attend the Board of Supervisors meetings. He said members need to be honest with themselves by realizing that they are discouraging public participation by not accepting the participants' well-researched proposals.

Member Craven suggested and Chair Knee agreed to

- review the 2004 packet and compare it to the latest packet and see what is significantly missing
- ask Terry Frank if he could go through the proposed amendments in Articles I & II.

Member Craven said she would

- review the amendments proposed by Allen Grossman, Kimo Crossman and others to see if anything was overlooked.
- review the San Jose, Oakland and Berkley Ordinances to see if there were provisions that the Task Force needs to consider.

Member Johnson agreed to

- review current changes and look for inconsistencies

Continued to next meeting without objection

5. The Sunshine Ordinance Task Force's response to Ethics Commission communications regarding referrals of Sunshine Ordinance violations to the Commission by the Task Force

Chair Knee announced that Chair Chu was arranging for a joint meeting to be held among members of the Compliance and Amendments Committee and the Ethics Commission at an undetermined date in March. He also said he agreed to review tapes of the Nov. 27, 2007, and Jan. 8, 2008, Task Force meetings and the Dec 7, 2007, Compliance and Amendments Committee meeting. His memo, he said, provides guidance for the letter Chair Chu was going to send to the Ethics Commission and she can incorporate whatever she wants from his memo.

Public Comment: Ray Hartz said he has read all the correspondence involved in this issue. The trend, he said, seems to indicate that the City Attorney is saying: "I am the City Attorney. I don't want to give you something. I'm going to send it to a committee where one of my employees will simply tell you the same thing." It's like telling a defendant that he or she is guilty and then dismissing the case if the person did not agree to the penalty. It's a journey in circles, he said.

No action taken. No motion necessary. Chair knee said issue is back with Chair Chu.

6. Administrator's Report. (discussion only) (attachment)

Mr. Rustom made the report.

Public Comment: None

7. Public Comment on items not listed on the agenda to be taken at 5:00 p.m. or as soon thereafter as possible. (no action) (no attachment)

Public Comment: Ray Hartz he does not mean to demean any of the Task Force members but every Tuesday he attends the Board of Supervisors meetings to present to them "SF Open Government: A Journey in Circles" because he sees people wandering around the bureaucracy and the most they could get from the Task Force was an Order of Determination.

8. Announcements, questions, and future agenda items from Committee members. (discussion only) (no attachment)

Chair Knee said the Society of Professional Journalists, Northern California chapter, plans to hold its annual James Madison Awards dinner March 18, 2009, at the New Delhi Restaurant in San Francisco.

Next meeting scheduled Tuesday, March 10, 2009, at 5 p.m.

Adjournment

The meeting adjourned at 5:20 p.m.

This meeting has been audio recorded and is on file in the office of the Sunshine Ordinance Task Force